

Corps Continues to Conform to Terms of January 2001 Manatee Settlement

On 31 July 2002, U.S. District Judge Emmet Sullivan of the D.C. District Court ordered two federal agencies to show cause why they should not be held in contempt for violating a January 2001 manatee protection settlement agreement with a coalition of environmental organizations led by the Save the Manatee Club. The U.S. Department of the Interior, including the U.S. Fish and Wildlife Service (FWS), and the U.S. Army Corps of Engineers are the agencies named as defendants in the court case.

The plaintiffs did not allege, nor did the judge find, that the Corps of Engineers failed to carry out any of its responsibilities in compliance with the terms of the manatee settlement of January 2001. However, as a named defendant in the suit, the Corps must still comply with the judge's order to show cause. The Corps remains committed to working with the Department of the Interior to meet the terms of the settlement.

Two years ago, environmental groups led by Save the Manatee Club filed suit against the Corps of Engineers and FWS claiming that the federal government had violated the Endangered Species Act and the Marine Mammal Protection Act (MMPA) in Florida. Save the Manatee Club felt that the Corps' Clean Water Act Section 404 permitting of Florida boating facilities was responsible for vessel-related manatee mortality in Florida's coastal counties.

Although the Corps strongly disagreed with Save the Manatee Club's conclusions about its permitting program, the Corps and FWS, after extensive negotiations, entered into a settlement designed to assist the endangered Florida manatee while still balancing the interests of Florida boaters and marine operators.

For its part, the Corps agreed to take a very conservative approach, consulting with FWS on far more permit decisions than it had in the past. The FWS agreed to proceed with Marine Mammal Protection Act rulemaking on the manatee, and the Corps agreed to participate in that rulemaking. FWS, among other things, also agreed to issue new rules regarding refuges and sanctuaries for manatees.

Additional information on Corps review of permit applications related to the Manatee is available at

http://www.saj.usace.army.mil/permit/hot_topics/manatee/contents.htm